

January 7, 2019

VIA ECF

The Honorable Robert W. Lehrburger
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1960
New York, NY 10007-1312

White & Case LLP
1221 Avenue of the Americas
New York, NY 10020-1095
T +1 212 819 8200

whitecase.com

Re: *Sergeants Benevolent Association Health & Welfare Fund v. Actavis, plc, et al*, Case No. 15-cv-06549-CM-RWL (S.D.N.Y.) - Mediation

Dear Judge Lehrburger:

I write on behalf of the parties in the above-captioned litigation, in response to the Court's Order of December 18, 2018 (ECF No. 177) requiring the parties to inform the Court of the status of any discussions regarding the timing of mediation. Forest and Direct Purchaser Plaintiffs in *In re Namenda Direct Purchaser Antitrust Litigation*, Case No. 15-cv-07488-CM-RWL (S.D.N.Y.) have engaged Jonathan Marks of MarksADR, LLC to mediate the direct purchaser action, with a mediation session scheduled for March 6-7, 2019, and the parties to the direct purchaser action have agreed in principle on a mediation protocol with Mr. Marks. Forest and Indirect Purchaser Plaintiff have similarly agreed to conduct a separate, parallel mediation with Mr. Marks, with a session to be held on March 8, 2019, and the parties to the indirect purchaser action are working on a mediation protocol with Mr. Marks. In both actions, the parties have had preliminary telephonic conferences with Mr. Marks and expect to engage in extensive pre-mediation submissions and conferences with him in January and February leading up to the March mediation sessions.

The Indirect Purchaser Plaintiff and the generic manufacturer defendants have agreed to mediate with Mr. Marks as well, and have agreed to schedule a mediation session between April 1-4, 2019, following Forest's mediations of the direct purchaser action and the indirect purchaser action.

Merz was dismissed from the direct purchaser action, and the parties to the indirect purchaser action were discussing a possible dismissal of Merz as well, but that agreement has not materialized to date. In the event that Merz is not dismissed from the indirect purchaser action, the parties will discuss Merz's involvement in the mediation.

Honorable Judge Lehrburger
January 7, 2019

Respectfully submitted,

A handwritten signature in black ink, reading "Heather K. McDevitt". The signature is written in a cursive, flowing style with a large, stylized 'H' and 'M'.

Heather K. McDevitt

T +1 212 819 8937
E hmcdevitt@whitecase.com

cc: Chief Judge Colleen McMahon (via ECF)
All counsel of record and counsel for Direct Purchaser Plaintiffs (via ECF)